

SB392 – Voluntary Sanitation in Subdivision Review

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 1

DATE 2.16.09

BILL NO. SB392

Background:

MCA 76-4 Montana Sanitation in Subdivisions Act

Provides for review of

Water Systems

Wastewater System

Solid Waste

Stormwater Management

in proposed subdivision lot less than 20 acres in size

Application is submitted to MDEQ for review and approval

Approval document called a Certificate of Subdivision Approval - COSA

COSA:

Assures owner, seller, realtor & buyer that property is developable according to approved plan

Is a legally binding document

Approved well and septic drainfield locations have legal status

Adjoining properties cannot be developed in a way that impacts the approved locations

Is an asset to the property owner

Current law does not allow an existing lot or a proposed lot of 20 acres or more to go through the sanitation review process to get a Certificate of Subdivision Approval.

This bill will allow for any lot of any size to go through sanitation review VOLUNTARILY in order to obtain a COSA.

Benefits

1. For existing lots –

A person with a lot platted in 1910 can voluntarily take his lot through the sanitation review process to demonstrate it can be developed with water, wastewater, solid waste and stormwater management systems.

If it meets all the regulations, the MDEQ will issue a COSA. Then, when he goes to develop or sell the property, there is legal assurance the lot can be developed. This serves the seller, buyer, and realtor representing the property.

There is no other way to provide this legal assurance of development. A county health department site evaluation letter is only good until state rules change or site conditions change.

Having a COSA is especially important for lots that are very expensive and often difficult to develop such as lakeshore or riverfront lots.

A COSA also gives legal status to the water and wastewater systems so a neighbor cannot drill a strategic well to prevent the property from being developed.

There is a benefit to the state in that the property must develop according to the COSA. This includes the requirement to have a stormwater management plan. For waterfront lots, this protects water quality.

If the lot cannot meet the state requirements for lot development, it would not get a COSA. It just maintains its current status; there is no negative impact. And, it would be subject to county septic system permitting.

2. For proposed lots 20 or more acres –

Currently, if a proposed subdivision lot is 20 or more acres it has sanitation review by the county. If it is further subdivided so it is under 20 acres, the approved water and wastewater facilities have to be reviewed and approved again by MDEQ. This is a waste of the property owner's time and money.

This bill allows the owner to choose to have MDEQ of lots over 20 acres. Then, if the lot is further divided, the water and wastewater systems already have MDEQ approval and the owner can claim an exemption from further review.

It makes sense not to have to review the same well and septic system at the county level and then at the state level.

3. For proposed subdivisions that have lots both less than 20 acres and greater than 20 acres –

Some proposed subdivisions have lots under 20 acres that must be reviewed by MDEQ and lots 20 acres or more that must be reviewed by the county. They often share infrastructure such as water systems, wastewater systems, and roadway stormwater plans which are typically reviewed by MDEQ. So, you have both county and state review of parts of one subdivision. This makes for an inefficient way to conduct sanitation review.

This bill allows for the full subdivision to have MDEQ review which provides for a better and more efficient review process. It results in one Certificate of Subdivision approval for the entire subdivision, rather than a state COSA and a county approval document.

This is a simple idea that provides a lot of value for Montana property owners.